

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE GUARDIAN NEWS, INC.,

Plaintiff,

-against-

TOWN OF GREENBURGH, New York,

Defendant.

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ANSWER

07 CIV. 04062 (CLB)
Hon. Charles L. Brieant

(Electronically filed)

Defendant, as and for its answer to the complaint in the above-captioned matter, sets forth as follows:

1. Defendant denies the allegations contained in ¶ 1 of the complaint, and refers all questions of law contained therein to the Court for adjudication.
2. Defendant denies the allegations contained in ¶ 2 of the complaint, and refers all questions of law contained therein to the Court for adjudication.
3. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 3 of the complaint.
4. Defendant admits the allegations contained in the first sentence of ¶ 4 of the complaint. With respect to the allegations contained in the second sentence of ¶ 4 of the complaint, Defendant admits that Plaintiff has accurately reproduced certain sections of the Greenburgh Town Code and that Defendant generally “enforces” all sections of this Code as a matter of governmental policy, but denies that it has ever “enforced” these or any other code sections so as to deny Plaintiff or any other applicant a permit to install a newsrack.

FIRST CLAIM

5. Defendant repeats and realleges its responses to the allegations contained in ¶¶ 1 through 4 of the complaint as though they were fully set forth herein.

6. Defendant denies the allegations contained in ¶ 6 of the complaint, and refers all questions of law contained therein to the Court.

SECOND CLAIM

7. Defendant repeats and realleges its responses to the allegations contained in ¶¶ 1 through 4 of the complaint as though they were fully set forth herein.

8. Defendant denies the allegations contained in ¶ 8 of the complaint, and refers all questions of law contained therein to the Court.

THIRD CLAIM

9. Defendant denies and realleges its responses to the allegations contained in ¶¶ 1 through 4 of the complaint as though they were fully set forth herein.

10. Defendant denies the allegations contained in ¶ 10 of the complaint, and refers all questions of law contained therein to the Court.

FOURTH CLAIM

11. Defendant denies and realleges its responses to the allegations contained in ¶¶ 1 through 4 of the complaint as though they were fully set forth herein.

12. Defendant denies the allegations contained in ¶ 12 of the complaint, and refers all questions of law contained therein to the Court.

FIFTH CLAIM

13. Defendant denies and realleges its responses to the allegations contained in ¶¶ 1 through 4 of the complaint as though they were fully set forth herein.

14. Defendant denies the allegations contained in ¶ 14 of the complaint, and refers all questions of law contained therein to the Court.

SIXTH CLAIM

15. Defendant denies and realleges its responses to the allegations contained in ¶ 14 of the complaint as though they were fully set forth herein.

16. Defendant denies the allegations contained in ¶ 16 of the complaint, and refers all questions of law contained therein to the Court.

SEVENTH CLAIM

17. Defendant denies and realleges its responses to the allegations contained in ¶¶ 1 through 4 of the complaint as though they were fully set forth herein.

18. Defendant denies the allegations contained in ¶ 18 of the complaint, and refers all questions of law contained therein to the Court.

FIRST AFFIRMATIVE DEFENSE

19. Plaintiff's complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

20. Plaintiff lacks standing.

THIRD AFFIRMATIVE DEFENSE

21. This case, in whole or in part, is not ripe.

FOURTH AFFIRMATIVE DEFENSE

22. This case, in whole or in part, does not present a case or controversy.

FIFTH AFFIRMATIVE DEFENSE

23. The challenged Code sections constitute reasonable time, place, and manner regulations.

SIXTH AFFIRMATIVE DEFENSE

24. The fees charged under the challenged Code sections are reasonably related to the costs of administering the law.

Dated: August 1, 2007
Greenburgh, New York

S/

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